

84

37202

NORRIS, MCLAUGHLIN & MARCUS

RICHARD A. NORRIS
 THOMAS P. MCLAUGHLIN
 G. ROBERT MARCUS
 PETER D. HUTCHESON
 HERBERT S. FORD
 JOEL N. JACOBSON
 J. ANTHONY MANGER
 MICHAEL J. KALISON
 WILLIAM C. SLATTERY
 WALTER G. REINHARD
 VICTOR S. ELGORT
 ANDREW F. MCBRIDE III
 KENNETH D. MESKIN
 KEVIN T. O'BRIEN
 M. KAREN THOMPSON
 RICHARD J. WEBB
 HERBERT B. BENNETT
 JOHN J. EAGAN

STEPHEN M. ASPERO
 JAMES H. LASKEY
 KENNETH R. SCHAEFER
 DAVID R. STRICKLER
 KEVIN R. JESPERSEN
 ROBERT C. GABRIELSKI
 ANN BITTON GAVZY
 STEPHEN J. HART
 PATRICK T. COLLINS
 STANLEY SCHWARTZ
 DOUGLAS R. BROWN
 GEORGE H. KENDALL
 PAUL J. HOGAN
 AMY WECHSLER
 WENDY C. TOMEY
 JOSEPH E. SALES
 RHONDA J. SCHWARTZ

LINDA COWELL RYAN
 GEORGE H. ROVER
 JAMES V. HETZEL
 KATHRYN A. HOCKENJOS
 MARTHA N. DONOVAN
 BRIAN M. FOLEY
 JOHN N. VANARTHOS
 KENNETH L. MCELWEE
 EILETHA L. DUFFY
 LINDA ZIBELLI
 DANIEL R. GUADALUPE
 JOSEPH M. DAVIS
 JAMES A. RABORN
 MARLENE N. NATALI
 MEGAN E. GLOR
 AUDREY A. HALE
 KENNETH M. KAPLAN

A PROFESSIONAL CORPORATION
 COUNSELLORS AT LAW
 721 ROUTE 202-206
 P.O. BOX 1018
 SOMERVILLE, N.J. 08876-1018
 908-722-0700
 TELECOPIER (908) 722-0755
 (908) 707-1067

*CERTIFIED CIVIL TRIAL ATTORNEY

August 5, 1991

VIA FEDERAL EXPRESS

Ms. Pamela J. Baxter,
 Project Manager
 U.S. Environmental Protection Agency
 Region II - Room 13-100
 26 Federal Plaza
 New York, New York 10278

Re: Proposed Plan for the New Vernon Road Asbestos Dump
 Superfund Site, Passaic Township, New Jersey

Dear Ms. Baxter:

This firm represents Hans and Helena Tielmann, owners of the real property identified above. Set forth below are the comments of Mr. and Mrs. Tielmann to the above-referenced Proposed Plan for the New Vernon Road site and the final report "Focused Remedial Investigation Asbestos Dump Sites, New Vernon Road Site, Morris County, New Jersey". Mr. and Mrs. Tielmann were present at the public meeting held to discuss the Proposed Plan on July 17, 1991. The comments set forth herein are submitted to supplement those made by Mrs. Tielmann at the public meeting.

The Tielmanns' preferred alternative is Alternative 3: Asbestos Containing Material ("ACM") Excavation and Off-Site Vitrification. This is the only alternative which provides a permanent remedy for the Tielmanns' property and would also eliminate the need for future institutional controls and restrictions to address potential long term environmental concerns.

Representatives from the Environmental Protection Agency ("EPA") have acknowledged that the EPA preferred Alternative 4: In-situ Stabilization/Solidification, is a technique utilizing a technology which has not been previously

ARD 002 0667

1

Ms. Pamela J. Baxter
August 5, 1991
Page 2

employed by the EPA. As a result, the implementation of this alternative at the Tielmann property is, in fact, a large scale pilot program. The decision to implement Alternative 4 appears to be based on minimizing implementation costs rather than based upon an evaluation of the proper and complete implementation of a full remedial program. While Alternative 4 reduces the EPA's direct remedial costs, it has the effect of transferring the EPA's direct remedial cost savings to the Tielmanns in the form of retained future liabilities as they are left with property that is depreciated in value and classified as a landfill, all as a result of the permanent entombment of ACM at the property.

While the Tielmanns' prefer the implementation of Alternative 3, should the EPA retain Alternative 4 as the preferred remedial approach, the in-situ treatment should be undertaken only in the area of the main landfill. The ACM at any additional locations at the Tielmann property should be excavated and removed to the main landfill area for in-situ treatment and placement at that location only. Implementation of such a "mixed" remedial alternative is the only way Alternative 4 can be accepted, as it represents the best approach to provide a site-wide remedy by: (1) excavating the isolated pockets of ACM, which are those areas of the Tielmann property where the private residence is located and Mr. Tielmann's business activities are undertaken; and (2) including this ACM treated material within the confines of the main landfill area. This would therefore result in the maximum environmental protection for the Tielmanns' property that is presently occupied and actively used.

The remainder of the Tielmanns' comments concerning the Proposed Plan and Focused Remedial Investigation are, in fact, questions concerning many of the long term implications of the EPA's proposal for implementing Alternative 4. Inasmuch as ACM will continue to be present at the Tielmann property, the Tielmanns face numerous uncertainties concerning the future ownership and/or use of their property, which issues need to be addressed by the EPA at this time. A listing of the issues identified by the Tielmanns at this time is set forth below and the Tielmanns' request the EPA's responses to the questions presented:

1. Will land use restrictions be imposed on the property, or any portion thereof? If so, please explain the nature of the land use restriction that will be imposed, and the procedures that will have to be followed in order for any site activities to be undertaken and/or the process whereby such restrictions can be lifted.

ARD 002 0668

Ms. Pamela J. Baxter
August 5, 1991
Page 3

2. The proposed plan states that areas containing greater than 0.05% ACM will be remediated. How will the EPA classify areas of the property containing less than 0.05% ACM and what limitations and/or restrictions will be imposed on any site activities in such areas?

3. What guarantees will be provided by the EPA that the remedial activities undertaken pursuant to the Proposed Plan will represent the final and total remediation of the property and what assurances will be provided that no additional site remediation will be required in the future? In the event that the EPA cannot guarantee that future remediation will not be required, what protection will be provided to the Tielmanns for the cost and/or liabilities associated with such future remedial activities?

4. Is the EPA's determination that groundwater quality has not been impacted based on groundwater quality data obtained through Fred C. Hart Associates? What assurances can be provided by the EPA that the Tielmanns' drinking water will not be impacted by the ACM that will remain on their property as a result of implementation of the Proposed Plan? Without such assurances the Tielmanns request that a water treatment system be installed at the property as part of the Proposed Plan activities to ensure that no future impacts will occur.

5. At what time will the Health Risk Addendum issued by the ATSDR be lifted for the Tielmann property? Will such action be taken only upon completed implementation of the Proposed Plan and, if so, will any air filtration devices be installed at the structures on the property pending the implementation of the proposed remedial plan?

6. Will the Tielmann property be restored to its original condition upon completion of the implementation of the Proposed Plan and does the time frame for the Proposed Plan implementation include the time for property restoration activities? In addition, if the Proposed Plan is implemented, what restrictions and/or limitations will be imposed upon the Tielmanns for the future installation of utility services such as natural gas lines, and sewer and water service to the structures located on the property?

7. The risk assessment issued by the EPA in July, 1991 noted that asbestos fibers of 0.063 fiber/cc were detected on personal monitoring equipment on the property. The Tielmanns have been advised that this most likely occurred during drilling activities performed by EPA

ABD 002 0669

Ms. Pamela J. Baxter
August 5, 1991
Page 4

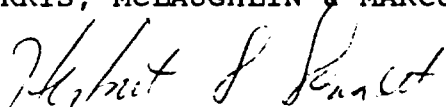
contractors at the property, and did not represent ambient airborne concentrations, but rather represented a "worst case" condition. The risk assessment states that "(e)xposure to airborne asbestos possess a potential risk for an individual exposed to asbestos in the air." However, in April, 1989 the Health Assessment issued by ATSDR noted that a level of asbestos fibers of 0.069 fibers/cc was detected at the Great Swamp site. In April, 1989 the ATSDR assessment stated that: "(c)urrently, air data do not indicate significant contamination by asbestos." This contradiction has never been explained and the Tielmanns are requesting a definitive determination from the EPA of the acceptable levels of airborne asbestos concentrations.

For years, the Tielmanns have faced continuous differing conclusions from the EPA and ATSDR concerning the concentrations of airborne asbestos at their property and the risks associated with the concentration of asbestos found. The sampling data generated at the Tielmann property and surrounding locations has never been compared to expected, or acceptable, concentrations of asbestos in the rural and urban environments. As a result, there is no "standard" upon which to measure the levels of airborne asbestos contamination found at the Tielmann property to the expected, or acceptable, rural and urban environments and/or to the levels that will be achieved by the EPA's implementation of any of the identified Alternatives in the Proposed Plan.

In addition, the EPA has yet to address the validity and/or relationship of the Health and Risk Assessment conclusions to the acceptable levels of airborne asbestos concentrations embodied in OSHA rulemaking and any other federal government standards or guidelines. The absence of any such comparative analysis renders ATSDR's Health Assessment Addendums suspect, and such an analysis must be provided in order to substantiate the health risk classification the ATSDR has imposed on the Tielmann property, and the basis for any reconsideration of the ATSDR classification at the present time and upon conclusion of the remedial plan implementation.

Very truly yours,

NORRIS, McLAUGHLIN & MARCUS


Herbert B. Bennett

HBB/pd
cc: Mr. and Mrs. Hans Tielmann

ABD 002 0670